

# Civil Service Board Meeting

## 3/6/14

**Board Members Present:** Marv Rosen  
Carolyn Worthington  
Alan Coxie  
Virginia Robinson

**Absent:** Lynn Moffa  
Patsy Brison, Attorney for the CSB

**Also present:** Council Woman Gwen Wisler  
Kelley Dickens – Human Resources Director  
Kelly Whitlock – Asst. Human Resources Director  
Derrick Swing – Human Resources Manager  
Jennifer Johnson – Human Resources  
Scott Burnette – Chief of Asheville Fire and Rescue  
Mike Knisely – Asheville Fire and Rescue  
Wes Rogers - Asheville Fire and Rescue  
Dan Flynn – Asheville Fire and Rescue  
Scott Mullins – Asheville Fire and Rescue  
William Anderson – Chief of Asheville Police Department  
Wade Wood – Deputy Chief, Asheville Police Department  
Brandon Moore – Sergeant, Asheville Police Department

**Marv Rosen** – Let me call the meeting to order. It's good to see guests here again today and we appreciate your attendance and as always welcome whatever input you may have for us. Before we get started in regard to the meeting and minutes needing approval. Let me first ask if there is, well, let me make suggestion, I've heard from several Board members that perhaps most, many employees are not aware that these are open meetings and their attendance is always welcome and encouraged. Is there some way that Human Resources can notify employees through a general e-mail or something of that nature and let them know when the next meeting is and it's an open meeting and they are certainly welcome to attend? I think that would be helpful.

**Kelley Dickens** – I think that we've tried to do that pretty good, especially if a department that has a specific thing on the agenda. I think the Fire Department was notified about today's meeting. I know we discussed that in some station meetings we had with them.

**Virginia Robinson** – I think it needs to be a general invitation to everybody.

**Kelley Dickens** – Yes, they get that with the schedule but we'll get that out.

**Marv Rosen** – In regard to the approval of previous meeting minutes, I've had a request from several Board members that we table that for the time being for further review of the minutes and so we'll pass on that for today. The next item on the agenda is Asheville Fire Department presenting on gray listing. Chief.

**Chief Burnette** – Thank you very much. To begin The Board at the February meeting as you recall had requested that the Fire Department come back with a presentation on gray listing for further discussion. As a review, on what that is: The practice of allowing someone to participate in a promotional process if their eligibility falls within the life of that eligibility list. So as an example, if we offer a test on July 1<sup>st</sup> and that eligibility list is good from July 1<sup>st</sup> until June 30<sup>th</sup>, and the minimum requirements for engineer, which is 4 years. Prior to using gray listing someone would have to have that 4 years minimum requirement prior to July 1<sup>st</sup> when that test for that eligibility list was established. With gray listing, someone could participate in the process if eligibility fell that year they would not be eligible for promotion or participate in that list or that test or be published on that list. Some of the information that the Board had asked the Fire Department come back with is a review of other departments that use gray listing. We put out a request on Listserve of fire service across the country and asked what departments use this practice with that description that I just gave and who all uses that. The departments that responded back that they used it were Carmel, Indiana, Stillwater, Oklahoma and Concord, North Carolina. Those are the three departments that responded. We also were trying to reach out to as many contacts locally, found out that the City of King, North Carolina and also New Hanover Co. in N.C. Their fire department uses it and not the fire department but the police department in Raleigh uses gray listing. Carmel, Indiana indicated that the reason that they started using that practice was for cost savings so that they did not have to do promotional processes as frequently. They would do promotional processes every two years. And so they use gray listing to keep from having to do one every single year. Stillwater, OK stated that the reason they used that was that they had an issue similar to what we had in 2011 where there was a perceived inclusion or exclusion of candidates and it's set on officer's test date so the union in Still water wrote that into their union contract that they had to use gray listing for promotional processes. Concord uses gray listing with all their minimum requirements, that's Concord, NC. They use it not only for time and gray but also certifications. If a candidate feels that they will meet a certification or another minimum requirement in the life of an eligibility list, they're grayed out on that list until they achieve that certification whatever that minimum requirement. They do that for all their minimum requirements. New Hanover County also their fire department also does it the same way as Concord. One of the steps that we also took was, and I believe you have a hand out that captures this, Ms. Dickens and I over a period of three days had 12 different meetings with the employees in the department to get feedback on since we've used this process, what are some pros and what are some cons. And what you have in front of you is just a list of, it captures the comments made by our employees. I'll be happy to go through those if that is helpful or if's best for you all to review those on your hand out.

**Marv Rosen** – I'd be interested in listening to what you have to say.

**Chief Burnette** – I'd be happy to. What, just to make sure it's understood how these were done. It was the Human Resources Director and myself. Four meetings on each shift, a total of 12 meetings. So, somewhere between 15 and 25 firefighters were at each meeting with the Human Resources Director and myself. And asked what are some pros and what are some good things and what are some bad things.

Some pros that were captured in those 12 meetings by our firefighters were: One is that no negative impact based on when the date is set and that is the Stillwater, Oklahoma example. The example that we had in 2011, based on when a date is set there could be negative impact. The fire chief doesn't choose or impact a person's path based on setting a date. It takes away the appearance of favoritism, more personnel to choose from, allows the department to promote the best of the best, potential cost

savings, bigger pool and larger list to promote from a large number of vacancies can't guarantee that the department will always do annual tests. And this practice helps eliminate the negative impact and that's speaking to how the Carmel, Indiana example where if we go 2 years and potentially somebody could be miss a test by a couple of days and then have to wait to 4 years to get promoted. Limits the conspiracy theory about date setting manipulation and that looking at 2011 and where there's an impression by some that where I set a promotional test date it would include or exclude those people when I set that date to favor some employees or to eliminate other employees that I did not want to get promoted. Those that test are at least provided the opportunity for development by just participating in the process. Brings up the number of candidates by increased competition, increased competition leads to increased effort both in preparation and performance and eliminates the ripple effect and without the gray listing can impact someone's entire career path. That comment was related to, if you missed the senior firefighter promotion by whatever period of time and that puts you back by up to a year. That's going to delay your engineer opportunity if you miss that by a few days and that could be 2 years and then the company officer as well if that spot just a short period of time and potentially battalion chief could be delayed up to 3 to 4 years in the most extreme case scenario. Performance based assessments are used to promote those who will be most effective but not before someone actually has time and grade. Testing encourages development of skills and abilities for not only that individual but for others as well. Process is more competitive, levels the playing field and helps in the cost savings.

Some bad stuff, some negatives that we've experienced in 2011. Some unknown, that certainly for some on the list as to if and when they would get promoted if they were gray listed. That comment was related to, since retirements are unknown, since that's when we do most of our promotions that are because of retirements, and you're sitting on the list and there's somebody that's gray listed above you, then you don't know when that retirement's going to occur so there's a lot of uncertainty. I'm this number on the list but after a certain day, I'll be this number on the list. That's what that comment is related to. Perceived inequity for those that already have their time and grade. Perception there is a rush to promote or promoting people too fast is what that comment is related to. Feeling that it allows people to break in line in front of others. Prior to 11 others had to meet eligibility by test date and so allowing the practice allows others to do things some didn't get to do in past. A slap in the face to seniority, increased competition impacts morale. In 9 of the 12 meetings, it was brought up that if we had test dates that were the same all the time and establish those and were able to do that, the concern that I've had in the past with a set in stone test date is we would be setting ourselves up for an unrealistic expectation. That's some really good feedback in these meetings that's not as important as let's have a set eligibility date where we say we're going to do a test on July 1 and we have a hurricane or a tropical storm come through and we're out in the field for a week and have no, and we actually did a test on the 7<sup>th</sup>, that part doesn't matter. We say every single year we're going to have that eligibility day on July 1<sup>st</sup> and stick with that, we may sway from that a week or two but we're consistent with that July 1<sup>st</sup> every year. That was a good solution to that. So and now in those 12 meetings that was brought up if we had a set date every year and we always had our eligibility for that test, you have to have to have your time for that eligibility of and we're able to do that with every one of our processes, engineer, LT., Deputy Fire Marshall, Battalion Chief, then there would be a comfort level with using gray listing for the things you weren't comfortable with it. That same comment came up in many of the meetings that we had. At the end of the meeting, what I asked everybody in the room, I said, if you think that gray listing is a tool that we should continue using raise your hand and if you think gray listing is a tool that we should not continue using, raise your hand. Over all we had about a half of the people who did not express an opinion. Of the half that did express an opinion, is about 50/50. Half thought it was a tool we should continue and the other half thought it was a tool that we should not. So the description and

going back to the history and other departments, the feedback from the department, I hope that meets the request from the Board.

I just wanted to summarize with a recommendation based on the feedback that I heard and our HR director heard in our meetings. Let's move forward with a static date for our promotional test, static eligibility date for all our processes and allow gray listing so that the establishment of that effective date does not have an impact either negatively or positively. With that I'll be more than happy to answer any questions.

**Marv Rosen** – Thank you, Chief. One of the questions I have, one of the pros of the gray listing is perceived that you are able to promote the best of the best and I think that's obviously an ideal goal. You're probably not always able to achieve that but it is certainly a worthy goal. Why even have eligibility requirements if you want to get the best of the best? I know that's kind of absurd but...

**Chief Burnette** – Yes, and that was actually discussed in our meeting and in each of our meetings were anywhere between 1 and 2 hours, there was a good bit of conversation in all these meetings. That was brought up in a couple of meetings, I think 2 different meetings, I think somebody mentioned that. Just for that same question. If we're going to do this, let's look at the reason why. The fire service, law enforcement and the military are the few industries that use time and grade. We all know that in most of our professions when there is a requirement of experience it typically is a range, it typically says 3 to 5 years experience in the field or it looks at other qualifications. But the fire service, law enforcement and the military are very specific about having that minimum time and grade and intuitively the reasons for that is that those 3 occupations are similar in nature in that it requires quick decision making that the consequences are considerable if a wrong decision is made. And so the requirement for experience is inherently very important to us in the fire service and to law enforcement and to the military. There is a set, ingrained capability for 2 things. One, that decision making but also those who are impacted by those decisions have a level of comfort in that person making the decision. That's my feel for why the fire service has those minimum time and grades.

**Marv Rosen** – I fully understand that rationale and it's one that is self evident and makes sense to me. On the other hand, having some military experience, when you have time and grade it's an absolute. You must have that seniority in my experience of working with private sector companies and human resources, the seniority was given a great deal of credence in terms of promotional opportunities. It is often a tie breaker if all things else are equal then seniority is going to be a strong determinate. My concern is that in your attempt to promote best of the best, when you go to gray listing you are affecting those who have the time and grade at the time of the promotional opportunity. You've had 25 percent of your firefighters express a likeness for gray listing and 25 percent who didn't like it. How strong do you think their feelings were pro and con? You're basically talking about people who are equal about it that have expressed different opinions.

**Chief Burnette** – I really think that would be really difficult to quantify. The opinions expressed both ways were very passionate in most every single meeting.

**Marv Rosen** – Do you have some sense of I think very much like APD, AFD is how to apply modal age distribution. We've got a lot of young people with not a whole lot of seniority and then you've got people with seniority. Any sense looking at those 2 age groups what in terms of seniority what their outlook is?

**Chief Burnette** – I do have a sense of that because I was gauging that because I was as interested as everybody. The interest and this certainly was no surprise whatsoever. The 50 per cent, roughly half the people in each group that did not express an opinion were by large our newer firefighters and saying young is, the average age for the Asheville Fire department is 40. And so we have an inexperienced department rather than a young department being 42, I would like not to say that 40 is old. So that was by far the group that didn't express an opinion. They're certainly very experienced people and also in our department didn't express an opinion in those meetings. But those who did express opinions it was not split, newer firefighters and firefighters who had plenty of experience. It was mostly firefighters who had more experience, which makes sense. A newer firefighter's, 2 factors, one, not having as big of an understanding of what this is, of what this issue is and what potential impacts this issue has, I think that was one factor, but also, just as anyone does newly in a career, they're still feeling things out and they definitely don't want to attach themselves one way or the other to a sensitive issue that people could be passionate about on both sides. So those that expressed an opinion were certainly not our newest firefighters. Half of our department has less than 10 years experience. That is an important dynamic to understand. Half of our department has less than 10 years, that has nothing to with, has very little to do with retirement. Our retirement rate is 1.2 per cent. Our firefighters retire, we don't have firefighters that leave the Asheville Fire Department. But we have been blessed to expand our department significantly. I was hired in 1995, we had 189 firefighters, we now have 257. So that's the reason that we have a department with less experience where half of our department has, less than 10 percent, we should have half that has over 15 and the other half that has less than 15 years. But since we've expanded significantly, which is a wonderful, wonderful thing to have more firefighters, 4 firefighter companies, we're up from nine out of 16 companies now that have a minimum of 4. The cost of that is a less experienced department, less than 10 years. Half. So if you look at those dynamics it makes sense why those split out roughly half the people that didn't express their opinion.

**Marv Rosen** – One other question, one of the questions that was asked is gray listing more likely to affect the promotional opportunities of the candidate that meets a fixed criteria. Fixed seniority.

**Chief Burnette** – I think absolutely. I think that if we use it, it impacts people who may have to wait an entire additional year, I'm sorry if we don't use it, if we do use it, it impacts someone who would not have that competition and somebody would have to wait an additional year. So, yes sir, I think that in every process it has the potential to affect the people who are on that eligibility list.

**Marv Rosen** – As a follow up question, Chief, you talk about the responses you got, received from 4 or 5 municipalities that use gray listing, did you receive any responses and expanded explanations from the municipalities that chose not to use gray listing?

**Chief Burnette** – No sir, I think that, just looking at the 150,000 municipal fire departments there's very few that do this, at the same time, here in North Carolina we're 1 of only 8 accredited departments and so I think it's more a factor of not departments saying let's select what we should use and what we shouldn't use. I think it's more a factor of, traditionally the fire service has operated as the Asheville Fire Department and when there is a promotional opportunity needed, a test is given, a date is set and people just fall on one side of the list or the other based on when that date is set. I think that's what's been used. But the answer to your question directly, the only responses that we got were yes, we use it, we didn't get any response that said we used to use it and we didn't like it or anything like that and we were thinking about using it. But we didn't ask that question either, all we asked on that listserve was; gave a little description of what gray listing was and are there other fire departments out there that use this and if so give us your experience with it.

**Marv Rosen** – Any questions, comments?

**Virginia Robinson** – I have a question. You're talking about eligibility and you're saying that you want the best of the best, if a man will be eligible six months, say he has six months to go before he would be eligible at all, testing is handled in July and he's not eligible until February or whatever, it appears to me that on the job, he is gaining more experience and would become better if he waited until the next...

**Chief Burnette** – Absolutely.

**Virginia Robinson** – So that is why I don't understand the graying because if he's going to work up to that full year, he's going to be better than he was the year before.

**Chief Burnette** – You could not have said that better. 100 percent of the people in our department feel that way and I'm very passionate about that, in fact I gave this example in the meeting. I wish that we had a system where you could not be an engineer until you've been in the fire department for 20 years. I wish that we had a system that you could not be a company officer until you've been here for 25 years. Reality is half our department has been here less than 10 years. With making people wait the longer we make people wait the better it is, no question. My issue and the problem that I tried to solve back in 2011, is I don't think it's fair and equitable to decide who gets to wait and who doesn't get to wait. Because the LT. is 6 years and so without gray listing or with gray listing we're still promoting people at 6 years. That doesn't change. We're promoting people right at 6 years without gray listing then based on when you were hired or when I choose to give the date or when somebody retired then I would say you're going to wait 6 years, you're going to wait 6 years and 2 months, 6 years and 6 months, 6 years and 10 months is totally based on my decision on when I set that date. That's why we're always struggling. I always said that you know absolutely take a better candidate 6 years and 10 months no question, if that's the case let's make all of 4 of you wait 6 years and 10 months. So if 6 years is what we've established, is what the minimum requirement needs to be, let's make the same for everybody. Not say, you know not make it variable. So that was the purpose of the gray listing was to standardize that. When the fire chief before me, in the 5 years that I've been fire chief there's been no change in those 6 years and 4 years as far as minimum requirements. The fire chief before me, when we went from 7 years to 6 years, the decision was based on we were becoming a less experienced department because we were expanding. We did some research to find out through the entire nation, what is the minimum time and grade on average in the country for company officer, for LT. The answer was somewhere between 4 and 6 years, at that time we were sitting at 7 years. And so culturally none of us had the stomach for 7 years, we wanted it to be even more, but the national average is somewhere between 4 to 6 years so we moved it down to the 6 years and that was the reason. Without gray listing though it's not equitable for everyone. It's arbitrary as to who had to wait and, this is a very extreme example, but theoretically somebody would have to wait 6 years, 364 days. One of the firefighters in one of the meetings gave an example as we thought about this that was really immediately the best example that I have heard so far. Right now you get your driver's license at 16 years old in NC, I think why I identify with this example is that I have a 15 year old son with a permit. On October 31<sup>st</sup> he's going to become 16 years old, it absolutely gives me so much anxiety knowing he could have his driver's license and so as a dad with 4 boys and my oldest turning 16, I'm not comfortable with 16. I want it be 40 before you get your driver's license and so if the governor were to say we're changing that to 18 to 20 or 25, I'd be voting for him again. However, the DMV is open every single day, Monday through Friday, and so when somebody turns 16 and my son turns 16 on October 31<sup>st</sup>, he has that right to go and prove himself, take a test and if he passes it and he gets issued that driver's license on the day he turns 16.

Well, if the governor said, to save money, the DMV is going to be open 1 day a year. Well, if he picks October 31<sup>st</sup>, that's my son's birthday, there's no impact on my son. But the governor can just arbitrarily say yeah it's going to be October 31<sup>st</sup> every year that we do license every year, we're going to do it this way from here on out this will be October 31<sup>st</sup>. That won't impact my son, if he were to pick October 30<sup>th</sup> though, my son won't get his driver's license until he is one day shy of his 17 years old. If I had had twins, born 5 minutes apart, one of my son's would get their license at 16, the other one would get it at almost 17. Completely based on an arbitrary decision of when the governor said the DMV is going to be open. Unfortunately the fire department, we can't have the DMV open every day for our promotional process, we just do it once a year. So that's always been my issue wanting to try and fix the 2011 was 100% of our department, and we didn't quantify this, but I would be very surprised if I did ask 100% of our department and said exactly that. The longer that you're here, does that make you a better candidate and leader and everybody would say yes. And that came up in the meetings as to, well gosh, this is a good thing then because it makes some people wait. I agree with that but where I have a problem is; why should we not be the same for everybody, why make some wait and others not. Long answer short question, but that's was a big topic that came up in the meetings.

**Virginia Robinson** – There's one other thing that bothers me is the impact on seniority and the morale of the department. I am a person who lives in the City of Asheville that wants those firemen to come when my house is on fire and not be mad about something that going on within the department and not doing their job as it should be done. Then I would be unhappy as a tax payer.

**Chief Burnette** - As would I as a fire chief.

**Virginia Robinson** – And so I think of that in terms if the morale in the department is better then people are going to do better job because they're happy with what they're doing. And if you are going to promote someone who's been there almost a year less than you have, 364 days less than you have, that morale of that person that's been there 364 days longer than you have is going to go where? To the basement and that's what bothers me about gray listing. I understand what you're saying but you're talking about getting the best of the best and if you're giving the more experienced, you're going to get the best of the best without gray listing.

**Chief Burnette** – Absolutely.

**Virginia Robinson** – Without gray listing, so that's where I am and the morale of the department and how they react when they are not happy with what they're doing.

**Marv Rosen** – Chief, has there ever been a time when you've had promotional opportunities that you haven't been able to fill the slots that are open?

**Chief Burnette** – In the last 5 years, and this is going off the last 5 years that I've been fire chief, I've absolutely know for certain, that may have occurred before, but the last 5 years we have had 2 battalion chief vacancies for some time right now. Our last battalion chief process we promoted 3 people, all 3 people were gray listed on that process, but only 3 people showed up for the test, only 3 people said yes, I'm interested in participating in this process and we had 3 vacancies and all 3 were promoted. Since that time we have not had anybody new become eligible for time and grade. 5 years as a company officer is a requirement and of our company officers there's no one new since that time and that's about 2 years ago that have met 5 years until right now. So, had we had given another battalion chief's test and the assumption is that all the company officers that are eligible before for whatever

reason they decided not to take the test, make that same decision and don't take the test, which is a safe assumption to make, then we would not have had anybody participate.

**Marv Rosen** – What would your reaction be to the idea that if you had 15 slots and you have 20 people who take the exam including 6 people, 14 who meet the standard 5 years, the additional group of people who take the test that would be eligible at some point during the time that list is active? What would you think about promoting first those who make the eligibility standard and if there is not a sufficient number from that group to go to gray listing?

**Chief Burnette** – I think that, in my mind, to try to be black and white about gray listing it's either a tool we should use or it's a tool we not. It's either something that levels the playing field or it's unfair. In my mind if it is something that is unfair, let's not use it, let's throw it out and move on. That came up at one of these meetings. Putting people who aren't eligible at the time, putting them at the bottom, then that helps only in those cases where we would not normally had enough vacancies. That softens the concerns that people have with gray listing. But, I still think that the perception that we're promoting people too fast and too early is still there with that. That 6 years, very few people in our department have a comfort level with that, even though that's at the extreme of the average of the nation. I think, I would not advocate a mixture, I would advocate it's either an effective tool to manage promotional processes or it's not. If it's not, it's because it's unfair. If our promotional processes are designed to select the best of the best and gray listing is a tool to help do that then let's use it. If it's a tool that's unfair or doesn't select the best of the best, then let's don't use it. That's my initial reaction.

**Alan Coxie** – What was Raleigh's experience with it? Raleigh Police department, they're the only department of any major size in NC that's using it.

**Chief Burnette** – Unfortunately, I don't have any information on that. I just found out about 3 hours ago, we're actually over in a process downtown and one of the consultants who was working on that process, just talking to them today, did they know of any other agencies in NC, because this person had a lot of experience with police and fire and local governments in NC. That was their answer. Raleigh Police Department does have that and we've got a contact number and name for Raleigh Police Department. That was after just after lunch and that's information unfortunately I don't have. I don't have any information as to why their fire department doesn't use it and the Police department does or what the Police department experience or any of the history about that.

**Alan Coxie** – Earlier you just said that you haven't really done a battalion's chief because nobody could show up to take the test. Are the standards too high and are we prohibiting an adequate pool of people from taking the battalion chief's test?

**Chief Burnette** – That's an excellent question and one that I really don't have a good answer to and one that I've asked many of our company officers, who I felt would be a good battalion chief. They are firefighters that worked for them today that have come to me and said that they would be excellent battalion chiefs. Just talking with them informally saying there have been a number of battalion chief opportunities that you have decided not to participate in. What is it and what can we do as a department to increase recruitment for that position? Without question, I heard a lot of different answers, One is: When you go from a company officer to battalion chief, you go from being non-exempt from overtime to being exempt from overtime. It's a 15% pay increase, but you no longer have overtime opportunities so your annual salary becomes static. That's something that I hear frequently. I hear people tell me, I have no interest in getting an associate's degree which is the requirement for



battalion chief. The number one reason in most cases, what was told to me, why I'm not going to take the battalion chief test and why I have not taken it in years past is I don't want to get off the truck. I came to this job as a firefighter, that's what I'm passionate about, I like answering the calls, I like going in with the group, I like dragging the lines, I like putting out the fire. I can relate to that significantly. In 2006 I made the craziest decision of my career to come off the truck and being chief officer. People ask me all the time, do you like being fire chief? I love being fire chief. In fact had I not done the real best job in the world, I'd think that this is the best job in the world. I know being on that truck is the best job in the world. Being fire chief is second best job in the world. So, that is what I heard. I'd ask these company officers, I would say, if we remove that associate's degree requirement, would you take a battalion chief's test? No, that's what I heard consistently. People would say to me, I don't have time to go to school because I have a family, I've got a side job. In 2014, and we've had this for some time, you could do it completely on duty. The degree's are online, study time, we buy the books here at the fire department, we reimburse your tuition, you can get your degree without any out of pocket expenses, without any time off duty. Captains are saying well, I don't want the education because I don't have time to do it, that's not a limitation any more. When I got my associate's degree in 1998, it absolutely was. I had to use vacation time and get other people to work for me and paid for every bit of it out of my pocket and ride to Gastonia, because that's the closest program. That was a big limitation, but today, fortunately we're in a situation where we're not. But I've struggled with that. It's such a critical position in our department, how do we recruit for that? We talked about that at our last promotional criteria advisory committee. What can we do as a department to help recruit for that? We keep circling back to the same answer, firefighters, we like being firefighters and that's a tough thing to ask somebody who has the best job in the world to no longer do that best job in the world. I really don't know the answer to your question specifically. That's the feedback that I've received.

**Alan Coxie** – Is it possible that those were the 3 given reasons but there are unspoken reasons why a person may not want to step out of that officer level and assume the position of battalion chief and be in charge of an incident or step out of what's perceived to be a line position and now be in upper management and have to work with a management system? Are there reasons maybe that could be addressed that aren't being used as given reasons?

**Chief Burnette** – Absolutely, Without knowing those, I don't know if that's the case. But I do know this, I do know that many of the conversations I had with some of our officers who have no issue whatsoever behind closed doors giving me candid feedback about very sensitive things. So I'm confident that the feedback that I got was not softened or filtered because even some of those same closed door meetings, they gave me candid feedback that was much more sensitive and certainly there are people in our department that I think that the majority would probably be our newer fire fighters but the good thing about internal person in the fire department, I've grown up with every one of these guys, I've worked on the back of the truck with them and I'd like to think that the people that I have worked with and fished with off duty, they know Scott Burnette and will give me that candid feedback.

**Alan Coxie** - One of things that really strikes me and I want to say right off the bat that I appreciate all the work that you guys have done in putting this together and presenting information. I want to make a few observations and then I will take your feedback. Number One: If there are 1500 municipal fire departments and only 6 or 7 are using it, it is not a widely used method. There's got to be a reason why that is or maybe, it's a new and emerging concept that most people aren't aware of or haven't had experience with and there is a certain resistance to change. I'm not opposed to any system just for the sake of that. But one of the things that strikes me is the concept that when you polled your department it's 50/50 on whether the department should continue to use it. I teach and when I teach one of the

concepts that I use the concept of watching the space shuttle. You have decision of critical importance, a 5 billion dollar orbiter, would you launch at a 50/50 fail rate? The answer is clearly no. If you use the NASA management model would you launch at a 60/40 fail rate? No. 70/30? No. And that's only containing 5 astronauts, not a huge life loss if you think about the context of larger disasters. The question is, was for NASA, what is a confidence factor that you will actually push the point of no return button and launch the space shuttle. 50/50 is clearly not it and although it may not be or have the consequences of launching a space shuttle the first 90 seconds of flight being the most critical for each of these firefighters who has gray listing applied to them in their own personal situation and their own personal economics, it is probably a great matter of importance to them. So, I struggle with the fact that at best the department is 50/50 on it. Then it would seem to me, my personal thoughts are that maybe the department should go out and look at other ways to address the concern that you addressed. Of the pros and cons, I would say this, having been in the fire department myself and had to work for a length of time and having a lot very long time without even a test being offered, I get that. I also get and understand and appreciate personally the concept of the ripple effect. The longer it takes you to take your first promotional process the longer it pushes out your next promotional process. And for those that wish to stay in the fire service and make it their career and are also supporting a family, a mortgage and all that, availability of a promotion process has a great impact on that person's situation. I just struggle with the low numbers of people who support it. So, I wonder if it wouldn't benefit your department to take some more time and go back and do some more meetings and do some brain storming on what are some other systems that could be used other than gray listing to address concerns that personnel have and management have in regard to the timing of promotional testing. What are your thoughts?

**Chief Burnette** – I think that what we heard in 9 of those 12 meetings was if we had a static date every single time, and this is word for word of what was said, I would change my vote to think gray listing was a good thing. That comment was made by one or two people in 9 of those 12 meetings. Was that sentiment echoed by all 50% who said no, absolutely not. That's not quantified or measured. That was the solution, the only solution that was brought up by people who voted against it or expressed that they thought it was not a good tool to use. That's the only solution that was brought forward with a static date it would be a good tool.

**Alan Coxie** – I struggle with that because what's currently used as a date is your date of hire and so if you had a static date of July 1 and that's just happens to perfectly line up with the City budget and fiscal year. Wouldn't it be possible for firefighters to say, but for my hire date of January 1st through June 30<sup>th</sup>, I don't hit that July 1 date and then those coming after July 1 that say, you know, I already had it but I'm having to wait until the next year. Can't any lines in the sand be, have mud thrown in it?

**Chief Burnette** – Yes Sir, and so the concept of gray listing is it erases that line in the sand. There was a really good point that I had not understood until this meeting was brought up, he's actually here. He brought up a real good point in that there is one factor that regardless if you use gray listing or you don't use gray listing, that does impact, and that is when you offer the test and you include experiences based on certain dates that does factor into it even if it's a small percentage, it does factor into it. So, you're exactly right. But the big factor whether you're even allowed to sit at table and try to prove yourself against everybody else, the gray listing erases that line in the sand in that kind of like the DMV example if what's important in a department that nobody can get promoted before 6 years as a LT. and nobody can get promoted before 4 years as an engineer, nobody can get promoted before 11 years as a battalion chief. But if that's what's important then that's the date we should use and not have 4 years 6 months, 4 years 2 months, 4 years even, we're still going to be promoting people at that date. To clarify

on when you hit that date, it's not date of hire but rather 2 years as a senior firefighter so that would be the absolute earliest if somebody with all those things. The line in the sand is always drawn without gray listing and if somebody could have to wait to hit that 16<sup>th</sup> birthday hopefully at the right time so they don't have to wait until they're almost 17 to get their drivers license. With having that DMV open just one time a year and being gray listed you take that test when you're 15 years old and 1 month, but you can't drive until the life experiences of being 16 years of age. Proving that you have that skill set, but what you don't have is the life experiences to make good decisions behind the wheel. When you have those life experiences at 16, that's when you're handed your driver's license and same thing with the promotional opportunities in what's important is that 2 years or 4 years of senior firefighter experience. You have the opportunity to prove yourself when we have the DMV open that one day a year. But until you have that life experience and that job experience that you can't promote. That part of it, the testing part, the evaluation part of how good are you compared to these other people and being a leader for our department. You could be a whole lot better than the 6 testing instruments show but until you have the job experience, you're not qualified like the person who is had it right here. At the same time, there's no line in the sand.

**Virginia Robinson** – Well...

**Alan Coxie** – One last question.

**Virginia Robinson** – I have a comment though.

**Alan Coxie** – Isn't the cure worse than the ill here? Because 50% of your department just doesn't support gray listing. Don't you have a morale problem that wipes out the benefits of gray listing?

**Chief Burnette** – 50% of the department feels that this is something we should use and that's 50% that are saying we're not using a tool.

**Marv Rosen** – That's 25%.

**Chief Burnette** – Yes, sir.

**Virginia Robinson** – Yes, but I have 2 comments now. If you use gray listing and you have 50% of your or 25% of your department that's unhappy and they said I'm the one out of the job and they leave, what have you gained? Absolutely nothing and you're reducing them in numbers now the person has been there 10 years, you're reducing the number now because you've lost these because you used gray listing. And the second comment I have, is if you enter into, if the City of Asheville hires you and there's a manual given to you or I don't know exactly how you do it, and it says OK you have to have so many years here before you can become a senior firefighter. Then you have to have so many years as a senior firefighter before you become eligible for LT., and so forth and so on. This is an agreement that you have entered into thinking of your career down the road, knowing that OK I was hired in September so I won't be eligible until I've worked here for 2 years and 9 months before I'm eligible for senior firefighter and then I know on down the line my date of employment is going to be extended but you have agreed to this back when you started working as a fireman. It's a contract so to speak and you know it. You buy a house in sub-division and you know that this house has to have 1700 ft but that's the restriction. You've entered into an agreement that you will not build a house smaller than that. You enter into an agreement, I know I have to be here and because I wasn't hired until September, I know it's going to be longer than the 5 years or 4 years or whatever the time is because of when I came to work. I think that's

something that you cannot control in any way. Because when people are hired is when that contract starts and not pushing them ahead of those people that were hired before them with seniority ahead of them.

**Chief Burnette** – One issue that we had was without gray listing we were actually breaking that contract with the employee. Because when you're hired you don't know when that test is going to be offered and you won't know if you have to wait 4 years or 4 years and 6 months. You don't know until that time comes. Your example with the house is excellent example in that 1700 square feet is a minimum requirement and so without gray listing, you're saying that OK, if you build in this subdivision you have to build at least a 1700 square foot house with gray listing, if they want to build a 1700 square foot house and without gray listing, you're going to say, I'm going to make you build an 1800 square foot house and you a 1750, so we're actually breaking that contract without the gray listing.

**Virginia Robinson** – I don't agree with you. If you accept a date for the testing and I know that it could vary a week later, I understand that because we don't know what's going to happen. Could have a big fire on the mountain and you all be out for a week, I understand that, but if they know that the testing is always going to be, for lack of a better date, July 1<sup>st</sup>, and that is the date and I signed up for this and I know that because I'm hired in September, I won't be eligible until the July after with that September date. You have agreed to it and it's always fair. I can understand why it could vary by a few days, July 1 could be on a Sunday, July 1<sup>st</sup> you may have been out. But I can't understand why it could not be a set date.

**Chief Burnette** – I appreciate your saying it. Could I give a quick real life example we've got right now and a decision we have to make, that may help?

**Marv Rosen** – What it's like to expedite?

**Chief Burnette** – OK, I apologize, this will be quick. We've got 2 current battalion chief vacancies. We need to do a battalion chief process. We promoted everybody that was interested last time. We have these 2 current vacancies that as soon as we give the test, whoever comes out on the top 2 are going to be promoted. We have 2 company officers that will hit their 5 years, their time and grade within a week of each other. We have another one that going to hit their 5 years, 6 weeks after them and another one that's going to be right around July 1<sup>st</sup>. The decision that I make, which is extremely arbitrary, if I say let's do April 1<sup>st</sup>, that's when you have to have your 5 years as company officer, none of those 4 people can participate. Well, let me do April 5<sup>th</sup>, it allows 1 but not the other 4, let me do April 10<sup>th</sup>, that allows 2 but not the other 2. Where do you draw the line? It's going to affect somebody, no question. But try to promote the best of the best in all these positions with qualified people, I've struggled with eliminating somebody by a number of days based on when I decide to do a test or eligibility or whatever. It's been 2 years since we've had a battalion chief's test so it maybe 2 years for them. My goal is to one every single year, but if it's 2 more years so a couple of days I might eliminate somebody's opportunity by 3 years. That's kind of the real world sample. Certainly we could, from this point forward, we could look at the day and this is the date for every single one. From this point forward we're going to do that, but whenever we do that it's going to impact somebody for the first time.

**Virginia Robinson** – Well, I have one short comment. You mean to tell me that in your whole department you only have 4 people that are eligible to take a test for battalion chief?

**Chief Burnette** – Yes ma'am. That have expressed interest.

**Virginia Robinson** – That is the only 4 that you have that are eligible to take the test? If you don't get gray listing, you put out list and there's nobody in that whole department that would be eligible to take the test?

**Chief Burnette** - There's a difference between being eligible and wanting to take the test.

**Virginia Robinson** – I'm not saying eligible, I'm not saying wanting, I'm saying eligible.

**Chief Burnette** – Certainly, they're eligible but they don't want to take the test.

**Virginia Robinson** – I think we need to look at testing.

**Chief Burnette** – We have, like I was explaining...

**Virginia Robinson** – I think that we need to something internally that causing people not to want to do it.

**Chief Burnette** – As I explained, it's not wanting to get off that truck.

**Virginia Robinson** – As management.

**Chief Burnette** – Interesting. I would like to get some feedback on that because that would help me improve that process.

**Carolyn Worthington** – It seems to me that in the case that you gave, if you had not allowed them to take the test, for a certain day and they were going to become eligible, you would have had to wait to hire people. You would have to wait a significant period of time before you could fill those positions.

**Chief Burnette** – Or hire externally.

**Carolyn Worthington** – Yes, or hire externally so it's giving you quicker access to a pool of qualified candidates.

**Chief Burnette** – Yes Ma'am. The last time I gave that battalion chief's test, there would have not been anybody, because all 3 people that took the test were gray listed.

**Carolyn Worthington** – You met your goal for those positions.

**Chief Burnette** – We would have had vacancies or would have had to hire externally.

**Marv Rosen** – At what level do you start to have difficulty filling positions? Lt.? Captain? Battalion Chief?

**Chief Burnette** – Battalion Chief, no question. We have positions on the trucks and there's never a shortage of people interested in those positions. Going from working 24 hour shift and riding a fire truck every day to you are sitting behind a desk, that's where we struggle.

**Marv Rosen** – Let me suggest, I can't speak for the sentiment of other people on the board, but it seems to me, I don't want to diminish the importance of any rank. You want good Lts., you want good captains, you want good battalion chiefs. But if there is adequate pool at lower levels, perhaps you can give some thought to how we might be able to help you rectify the issue at a higher level, perhaps come back to us with some other recommendation, just one of the thoughts I had.

**Alan Coxie** – And obviously, if we go the 3 listed, I tend to feel, as a person who's been in the department and as a person who works with fire departments, that there are probably other reasons. But I think you could even work on the 3 reasons that you've given. Obviously there is some resistance to moving off a 24 hour shift, obviously that affects secondary employment. Obviously that moves you away from something you love doing. Interior fire fighting is fun, I'm sorry it is. But that having been said, if a concern is moving from a non-exempt to an exempt position which makes you ineligible for overtime, then maybe the entry pay level for battalion chief is too low. Money is a motivator and at some point, if the base entry level salary for battalion chief is at a certain point your pool is going to expand and so maybe it's a pay issue. You know there's lot of things, I wouldn't want to drop the education requirements because you're looking at a front line manager handling lots of employment issues and fire scenes. But it seems to me, I agree with the chairman, that you might want to go back and look and seems to me and let's do a brainstorm operation. Let's poll the members of the department and see what suggestions they have for different solutions for, you know, it would be nice to do a round table why you're not interested in running for battalion chief, what things would make you more inclined to run for it. But I do agree with Virginia, there a lot more company officers in the department that have 5 years in the department that are clearly eligible that aren't taking it and that's an issue. You've got people that don't want to go up, that doesn't speak well to some aspects of the department. 'Cause in a given pool of people, people want to rise to the top. You spend all this time talking about best of the best and yet nobody wants to take that step. That doesn't float well.

**Chief Burnette** – It doesn't and we've had that conversation for 18 years that I've been in the fire department. I would love to have another outlet for people to express that, what Ms. Robinson brought up, that the fire department is mismanaged by Scott Burnette is the reason. I haven't heard that so that's good that you are hearing that, but I'd like to find out how to fix that. If I'm not hearing it, the fire department is mismanaged by Scott Burnette is a hard thing to fix. If there's another outlet, for that, because what my firefighters and my captains that I have strong relationships with are telling me is it's not that.

**Virginia Robinson** – Well, now. Let's be honest about this. You and I both know that an under employee is not going to the higher up and stand there and say no, I don't like what you're doing. Because I worked in work forces, I mean...

**Chief Burnette** – But they do. All due respect Ms. Robinson, they do. They sit in my office every day.

**Alan Coxie** – But I have to agree with her on that it's just common knowledge in management that you're just not going to do that. That's self destruction to your career. And there are tools for this, I mean you can hire an outside agency to come in and do a private, confidential survey of internal attitudes, internal beliefs and review promotional processes and you can get good quality information that's done in a totally confidential way. City's use contractors for that, I've done a couple of those myself so maybe it's time to do that.

**Marv Rosen** – It's sure good resources to have. Perhaps Human Resources could help with that also.

**Carolyn Worthington** – I can't help but comment that my experience there are a number of employees who don't want to be promoted, that don't want to be in management positions. I don't think that's uncommon and there may be a reason for that but they are certainly valid reasons. There's more and more employees who don't want to go into management because it is tough.

**Marv Rosen** – Any comments from guests today?

**Wes Rogers** – I'd like to speak up and say that if at any time I had something contradictory to what he was putting out there, there is no question in my mind that I could talk to him about it and even argue with him about it and not worry one bit about it in our discussions.

**Chief Burnette** – And you can say that because you have.

**Wes Rogers** – Maybe that's not everyone's but it's my perception of it.

**Dan Flynn** – I would like to make a comment as someone who has been a firefighter and now a battalion chief on that perspective. The jobs while they are in the same industry and are related, are completely different and I hope that as a board you understand that we're not talking about going from, it's 2 different things, it's not doing one job better, it's having a completely different role as a battalion chief and so while all these reasons are valid and all the comments about it, I don't want to put a whole bunch of eggs in a basket that say, there's something wrong with the system because people don't want to promote. It's a different job.

**Virginia Robinson** – Well, then maybe there's time to start looking at the possibility of going outside and not promoting within. If you have the people working under you do not want the job, just like we went outside and hired our fire chief, I mean police chief and so if the people in the department don't want the job then the answer might be go outside.

**Dan Flynn** – That would tie directly to the morale conversation earlier. I believe that within the fire service, it's only my opinion, if you're going to get the people who are eligible and will take the test if they're replaced by someone from outside.

**Marv Rosen** – Anyone else?

**Scott Mullins** – I'm the president of the Firefighters Association. I was lucky to share the stage with Chief Burnette last August in Denver. I want you to know he is not a problem to this department, he's an asset. There are a number of departments out there that would love to have him. We're very fortunate to have him. Also, I would agree, I do think pay is the number 1 reason why they don't take it and I think that there's a pay issue, not just for that, but for the whole department, but that pay increase has to start at the top and trickle down and starts with the chief. But you can't raise the battalion chief without raising people's, I would also echo what chief said and captains do love their spot on the truck and there's excellent candidates that would be outstanding at the job but they don't want to get off the truck. We have very capable people in this department to step up and do those jobs, we just have to get them in there.

**Marv Rosen** – Thank you, Scott. I appreciate your patience today, too. You presented at the beginning that you would really like us to do 2 things today, to look at the static eligibility date and discuss gray

listing. I think Chief at this point, we've got to spend more time looking at this to find some way to accommodate your needs. The best of the best is critical, in my point of view, if people come to a job the ground rules with expectations as to how things are going to be dealt with. Changing ground rules in the middle of the course is very difficult for a lot of people, that's my personal opinion. But it is a very real issue in terms of filling important and critical positions that are not being filled or having difficulty filling with those people at this point. I don't know if it's a question of a management development program, whether it's financial, to make it more attractive. So if there is some way that we can table this for today, find a forum where we can just sit down casually and talk about this. I understand there are certain ground rules that we have to follow as a board to have open meetings and not meet on a one to one basis. I certainly would think that other members of the board would be open to finding a way that we could sit down and see if we can find a way to help you with this issue.

**Virginia Robinson** – One of the things that might be a possibility is for us to meet with those captains that are eligible for battalion chief alone without you and just let them tell us why.

**Kelley Dickens** – I'm not sure that's within the authority of the Civil Service Board. I mean if there is an issue there Human Resources is willing to step up and meet with those individuals with me or some other source and compile that information and get it to the Chief.

**Virginia Robinson** – What I'm saying is to let them speak freely without feeling...

**Kelley Dickens** – We would ask the board to consider the promotional criteria and not the reasons why people why people aren't being promoted.

**Virginia Robinson** – OK, fine.

**Alan Coxie** – It's hard to tell though if you do appreciate the fact that sitting on this side of the table, it's hard to tell whether the criteria is a deterrent or other reasons are deterrent, without more information it's very hard to ask us to make a vote on something.

**Virginia Robinson** – It's at best, there's 25% of the department says no, it's not the best and 25% of them say it is and the other 50% could really care less one way or the other apparently.

**Alan Coxie** – And the 50% aren't speaking. It's not enough data to make a good decision on.

**Virginia Robinson** – It is not.

**Kelley Dickens** – What I can say is that I have sat in with the Chief on all those meetings and we did have very long discussions with staff and of the 25% that they didn't think it was a practice to consider, again there were several comments of you set a date and go with that date, they would believe that gray listing is a good practice because that they saw that it creates some equity among, you can't get promoted prior to eligibility.

**Alan Coxie** – But wouldn't a totally private survey where every firefighter has a vote and it's an anonymous vote and you just ask that question and you get 100% of the votes back. Wouldn't that give us more data to see how the department really feels? Because 50% of the people aren't even speaking to the issue at this point. So maybe if you could do it, you know, that's why we have private ballots in our democratic process here so that you feel comfortable voting for who you really want to vote for so



maybe some kind of poll that allows 100% of the people to vote in complete confidentiality would tell us more about what we're not getting in a station meeting.

**Kelley Dickens** – I honestly don't believe so. I think we should explore that and we can discuss the survey and see if that's an option and the Chief talked about a survey that they had done a few years ago referring to a change in scheduling. Major changes in their scheduling in the light of 40% participation rate in the survey.

**Marv Rosen** – Chief, are you comfortable leaving this without a vote from us today or would you prefer that we give you feedback on it, formal feedback?

**Chief Burnette** – There's a sense of urgency for us to have a battalion chief's process because we waited too long in my opinion to have a battalion chief's process, having said that...

**Alan Coxie** – Can I ask a really quick question about that?

**Chief Burnette** – Yes, sir.

**Alan Coxie** – Do you just informally poll people and see if they're going to see if they are going to apply for battalion chief or do you just actually put it out there and let people apply? If nobody says they're going to apply, do you not put it out there?

**Chief Burnette** – What we do to start the process is we issue a letter of interest to people and they fill out that letter that they want to participate or they don't.

**Alan Coxie** – So, if you get zero interest, you don't run the process?

**Chief Burnette** – I've never had that situation, sir. But, yes we would not run a process obviously. We actually had a deputy fire marshal process and someone asked if we had enough. We had a deputy fire marshal process and we had one person interested so we did the process with one person. If there had been none, obviously we would not.

To answer our question on that, having said all that, these promotions, we have 2 vacancies and we have 3 other chief officers that would like to retire soon. I would rather us elongate the process to get more information to make sure we're making the best decision to expedite that.

**Marv Rosen** – Did your presentation today cover gray listing totally? It didn't specify specific positions, LT. and captain. Are you carving out the battalion chief and not interested in gray listing for the other positions? We could take a vote on gray listing.

**Chief Burnette** – My recommendation would certainly be it's either a good management tool or it's not. It's either a fair management tool or it's not. I really would not want to use something that was unfair in one process and not another one. That's my recommendation.

**Alan Coxie** – Have you considered doing your listserve and asking what other processes that other departments use to resolve this issue without using gray listing? Surely gray listing is not the only management tool.

**Chief Burnette** – It's a good suggestion, but we have not done that.

**Marv Rosen** – Do we need to make a motion for us to vote on today?

**Alan Coxie** – Were you wanting a vote today or did you want to come back to us?

Chief Burnette – I think that making sure that we make the best decision possible before we launch this battalion chief process is most important. I should say, it's more important than starting that process today or starting that process between now and April. The concern that I have, I know we have some people that are coming eligible and I would hate for someone to feel that this position was delayed and would impact somebody's eligibility. Delaying the position certainly allows for more participation in the process. My recommendation and my feel is that if the board needs more information to make this decision, this decision is important enough that we certainly should wait. If you don't need more information then certainly we could move on.

**Carolyn Worthington** – Just for my own information trying to get a handle on this, I would like to know, I think that you and Kelley have a greater understanding of this process and it's benefits and its downside than we do or we ever will have. So what is your feel at this point? Is gray listing a good idea or not?

**Chief Burnette** – I do think it is a good idea. I think that after the feedback from the departments that if we were to set a certain date from now on forward and that date didn't impact anybody and everybody can get their driver's license on their 16<sup>th</sup> birthday. I really struggle with arbitrarily telling some people that they have to wait differently than other people and asking our more senior people to have to wait longer than our newer people.

**Carolyn Worthington** – So you see this as being a good management tool?

**Chief Burnette** - Yes ma'am, I do.

**Kelley Dickens** – I would agree. I think it takes out the inequity, most organizations they don't do annual promotion processes, when you have a position, you do a process and hire the best candidate whenever that happens. With Police and Fire, even other agencies don't do an annual effort for law enforcement where they post a position every time somebody retired, they did a process. But here because we do that I've seen the separation of dates from 1 week to 1 month and because we're not allowing them to actually promote until they get that year. If we set an eligibility date and keep it every year, then as long as that list is eligible, somebody might test and may only have 1 month eligibility. There's a likelihood they're not going to get promoted but at least they've gone through that development opportunity. We heard from many people in the department that just having the ability to test makes them want to do better, want to learn more and encourages those on their shift to learn more and do more.

**Marv Rosen** – Can you not accomplish the same thing simply by reducing the eligibility by 1 year, make it 4 years instead of 5 years?

**Kelley Dickens** – You still have that issue of people being except by a different date.

**Marv Rosen** – But you have, the fire department started in Asheville in the 18...

**Chief Burnette** – 1887.

**Marv Rosen** – So, you have 130 some years of history that wants to be rewritten today. I personally am not ready to support that.

**Alan Coxie** – The other thing that is interesting is too is we have the Police Department here with their promotional process, they're next up and yet I don't sense that we use gray listing at the Police department and yet they have the similar kind of rank structure and they don't seem to have the kind of issues with promotional candidates. I could be wrong. We'll hear from the Chief in a moment but gray listing is not widely used, you know, if you look at this quick survey of the 10 major cities in NC with populations of Asheville or greater, Raleigh is it, Raleigh police and not Raleigh fire.

**Chief Burnette** – Concord is our size but you're exactly right, hardly anybody uses it.

**Alan Coxie** – So, you know, I just wonder if there are other management techniques that are out there that will do that and I'm really curious to hear the Police department's process as well.

**Marv Rosen** – I'd like to move ahead, I'd like to...Can the chair make a motion?

**Virginia Robinson** – I move that we table this gray listing until we can acquire more information.

**Alan Coxie** – I second.

**Marv Rosen** – I would prefer that we vote today. That we make a decision today, the combination of that and eligibility date, in addition to gray listing would meet our approval for the Asheville Fire Department.

**Carolyn Worthington** – I'd like to vote today as well.

**Alan Coxie** – I heard that different Scott, I was under the impression, you would want to take the time to come back and get the promotional process done. Correct, so could we hear from you?

**Chief Burnette** – To clarify that, I think if the board needs more information to make a decision, I think that outweighs our need to move forward with our promotional process. If the board does not need more information to make a decision, then I would certainly recommend making a decision today.

**Marv Rosen** – I'm comfortable with the knowledge that I have that you've presented today.

**Alan Coxie** – I'll cast a vote.

**Virginia Robinson** – I'll cast a vote, too. I withdraw my motion.

**Marv Rosen** – Would anybody like to make a motion for a vote today?

**Carolyn Worthington** – That we vote today?

**Marv Rosen** – Yes.

**Carolyn Worthington** – I'll move...

**Marv Rosen** – We need a formal motion.

**Carolyn Worthington** – That we vote today on whether or not the fire department uses the gray listing process?

**Marv Rosen** – The motion would actually whether or not the board accepts the fire department's recommendation to. I'm making a motion to move toward a static eligibility date as well as adding gray listing as part of the promotional eligibility process. Would somebody second?

**Alan Coxie** – I guess somebody needs to make it.

**Carolyn Worthington** – I'm trying to come up with the wording again. Say that again.

**Chief Burnette** – My recommendation was to use a set eligibility date which would be the completion of that process and set those dates now and have those for perpetuity and use gray listing so it does not impact someone based on when they were hired, when they had their senior firefighter promotion. That was my recommendation.

**Carolyn Worthington** – I move that we set the Chief's recommendation, that we have a set eligibility date to allow people to become eligible for the process prior to their actual length of service whatever we're calling this.

**Chief Burnette** – Time and grade.

**Carolyn Worthington** – yes, that.

**Marv Rosen** – Do we have a second? I will second that motion, if I can. All in favor of the motion say aye. All those opposed?

**Carolyn Worthington** – Aye

**Allan Coxie and Virginia Robinson** – Opposed.

**Marv Rosen** – It is 3 against and 1 for and the motion does not pass. Thank you very much, Chief.

**Chief Burnette** – And thank you all, as you are aware this is an extremely important issue for our department so absolutely appreciate your time and guidance on this very important issue. Thank you.

**Marv Rosen** – Thank you very much. Chief, can we ask you to endure another 5 minutes for a short break?

**Chief Anderson** – Yes.

**Marv Rosen** – Let's call us back into session.

**Allan Coxie** – Thank you for your patience Chief.

**Chief Anderson** – You're welcome.

**Marv Rosen** – I wanted to congratulate you, it's not all too often in the Asheville Citizen Times gives our law enforcement officers the credit that they deserve and it's a real complement that housing unit, LT. Byrd, Sgt Eberhardt, all those troops that put in long hard hours to make it a very successful unit. It was nice to see that today.

**Alan Coxie** – Yes, it was.

**Marv Rosen** – Chief, you want to talk to us about promotional eligibility.

**Chief Anderson** – Thank you Mr. Chair. What we wanted to bring to you today is some recommendations from our promotional criteria advisory committee on the eligibility requirements for positions of Police Sgt. and Police LT. After our last promotional process in 2013, the promotional advisory committee began to have meetings to look at and benchmark some other jurisdictions as to the promotional requirements for Police Sgt. and Police LT. Their goal was to come up with an acceptable balance of education, training and experience for these positions. Just to give so idea, our current promotional requirements of Police Sgt., I think Deputy Chief Wood just passed that information out to you, is to have a bachelor's degree or higher and 4 years of service with Asheville Police Department or and associate's degree and 6 years of service at the Asheville Police Department or 60 semester hours in an active associate or bachelor's degree program plus 6 years of sworn service with the Asheville Police Department. That is our current criteria for Police Sgt. The committee added the recommendation of adding 6 years of sworn law enforcement service with a minimum of 4 years at the Asheville Police Department and a total score of 120 points on an eligibility request work sheet. What this is, this allows individuals who may not have the education but they have 6 years as a law enforcement officer, 4 years with APD taking into consideration some college credits that they may have plus giving them credit for their training that they have and coming up with a minimum score of 120 which would make them eligible to take the test. We believe what this does is open the level of opportunity for more of our employees to sit for the Police Sgt.'s promotional process. That's for Sgt.

On the LT. side, our current requirements are, I believe you too have this in front of you, a bachelor's degree or higher plus 1 year as a Sgt. with Asheville Police Department or an associate's degree plus 30 semester hours in an active bachelor degree program plus 18 months as a Sgt. with APD or 90 semester hours in an active bachelor degree program plus 18 months with APD. The committee is recommending that degree of hire plus 3 years as a Sgt. with APD, 90 semester hours completed in a bachelor's program plus 4 years as a Sgt. with APD or 8 years as Sgt. with APD. What that would do is, again those individuals that do not meet the current educational requirements, but they have been a Sgt. with the Asheville Police Department for a total 8 years would make them eligible to sit for the promotional process for LT. Again, we think that this would take some of our Sgts., some of our veteran Sgts. that have been here for awhile, have served in good standing, have been a Sgt. for 8 years or more would be eligible to sit for the promotional process. Sgt. Brandon Moore here to my left, he is the chair of the advisory committee, he can probably answer some of the specific questions and discussions that the committee had. I know citys and agencies that were benchmarked was Charlotte PD, Buncombe County Sheriff's office was looked at. The committee trying to keep employees in the loop as to what's going on, presented these recommendations to my office. I thought they were acceptable, I think they help when it comes to creating more stability in our promotional process. I think one of the things I've heard in the past was a lack of consistency in our promotional process. I think that this addresses that. I think

it provides a certain level of expectations for our employees when now they look at it, they not only take into consideration their education but also their training, not their mandatory training, their law enforcement training as well as their time and grade. Time spent with the department. I think it creates a certain level of standardization in our process that is helpful with that and think it also creates more opportunities for our employees to sit for promotional processes.

**Marv Rosen** – Sgt. Moore, that committee came up with these recommendations, was it solely within the committee or did you seek feedback from other officers?

**Brandon Moore** – This committee, the majority of the members have been in place for 2 to 3 years now, we've purposely used them over again. The Chief has ability to add people on when they come off from those that are voted, but they are voted on by their peers to join this committee. The majority of those are in different work units and sat with their work unit to get feedback. That's what we initially started with what we have. We sat down with the work unit in their roll call meetings, getting an idea of what they saw, and the Chief mentioned inconsistency, was the number 1 resounding tone of what we heard. The year 2011, we had x, y, z as promotional requirements, you in 2011 know that you had to hit that mark, in 2012 those changed. For better or for worse, everyone had different opinions, but for the most part, it was just the fact that they changed. You couldn't come in the door knowing that as we present today this is what is in place and in 4 years our hopes is that this is what is in place. So that officer sat upon these entrants into the department knows what mark he has to meet in order to promote if that is indeed what he wants for his career and that's what we set forward to do. That was what we heard the most from the officers on the line that had promotion in their scope for the future is we want something that stays consistent and something that is fair and equitable and that I can look at today and know that next year if I've met the mark I don't have to worry about them changing it on me. With that in mind, we sought out how other agencies actually took into consideration everything rather than what in past years and I've been on the committee this is going on 3 years. We've talked about a lot of things but we haven't come to what we have today. We haven't presented something that actually takes into consideration all the factors of what they're talking about and that makes it more fair and equitable on both ends, not just the ones that are entering the door but the ones who have been here for a significant amount of time. Mostly those who got hired a degree wasn't required. Most of those that this 8 years as a Sgt. to make LT., those individuals, when we looked at it, have a minimum of 14 years total experience that are not eligible because when they were hired this was not a requirement and through most of their career, this was not a requirement and at one point now it has become so now it discounts them.

**Marv Rosen** – Do you have a copy of the form, the 1073 ARW form? Because part of my question is to, with those officers that have the 14 years of experience, what's the likelihood that they're still going to be able to meet this standard of 120 points?

**Chief Anderson** – The 120 points is just for Sgt., not for LT.

**Marv Rosen** – There wasn't a value that was set-up I believe.

**Chief Anderson** – Correct.

**Marv Rosen** – That's still a work in progress?

**Chief Anderson** – Not really, because we looked at, in order to be a LT., you first have to be a Sgt. so you've already gone through the requirements for you to become a Sgt. but those might have changed over the years and taken away the requirement of a bachelor's degree and given them credit for their years of experience as a Sgt. having served 8 years as a Sgt. then they would qualify to sit for the LT's process.

**Marv Rosen** – So this ideally should provide officers with a good bit of seniority but only an associate's degree gives opportunity to test, to be eligible to test?

**Chief Anderson** – Like the Sgt. said, there may not have been an educational requirement when they first came on to the department and making education a priority, which I think is the right thing to do. They may not have been in a position to gain that education so now we're giving them credit for their years of experience.

**Marv Rosen** – Let me just ask a subjective question although you may have some things to support it, With the emphasis on education that started with Chief Annarino and moved on to Chief Hogan, a number of people have come into the department, a good number of people with bachelor's degrees, and in part those individuals have also been more likely to be promoted to Sgt. because of the existing policy as it stands now. Do you have some sense as to how well they are performing compared to Sgts. who had more field experience, more on the job experience? Does a bachelor's degree really make that significant difference in the quality of a supervisor's performance?

**Chief Anderson** – I'm not sure it makes that much of a significance of a difference but I do think anytime you have a higher level of education, it's going to better prepare you to do the job of supervising and managing people. But it also does not mean that those who do not have the education requirements can't do the job. I think it's encumbered upon us to do everything we can to prepare those individuals, either before they sit for the process and get promoted, but especially after they get promoted that we need to do a better job of training them and giving them the tools to do the job. I can tell you, I think that is one of the things that we have not done a very good job in providing training for our first line supervisors once they get promoted. That's one of the things that we're looking at improving now.

**Marv Rosen** – When you talk about the years, the minimum years of experience or eligibility in order to qualify for a Sgt's exam, does that eligibility period start at the time of submission of the application or when the testing is actually going to be done?

**Brandon Moore** – It is the date the testing process starts.

Excuse me, on this list, it is actually listed as the closing date of the announcement. If you are eligible by the closing date of the announcement, that way we know how many are sitting for the process. Like I said it's either the date of the process, the date they close the announcement or whatever, you have to define a date but that's what we do previously with closing date of the process because we may not have the exact date that it is going to occur.

**Marv Rosen** – Chief sent out an announcement with this new policy and said this is essentially the announcement for the Sgt's promotion.

**Chief Anderson** – Correct.

**Marv Rosen** – So if I, just arbitrarily, I'm 2 points short of 120 because I my anniversary date with the department is 3 months away and testing is given to start July 1<sup>st</sup> at which point I would have my 3 months to get the additional 2 points to get up to 120. You're saying that I would be excluded if the cut off date for this promotional exam was April 1<sup>st</sup> or April 30<sup>th</sup>.

**Virginia Robinson** – We don't want to go back to gray listing.

**Marv Rosen** – It seems to me that at the time of testing it's certainly the way you made the announcement for the process.

**Brandon Moore** – I think the problem is my date process for Sgt. we would know roughly but that may just as Chief Burnette said, the date process my change based on various factors so I think that's just the announcement that you have, you could move it back sometime but based on the 2005 memo that established promotional criteria.

In 2005, we have to have 90 days before the process to announce what our minimum eligibility requirements are.

**Chief Anderson** – That was the reason that day was put in my e-mail that was sent out all employees because we were trying to comply with the 2005 requirement that we have to notify the employees 90 days before the process.

**Brandon Moore** – 90 days before the process we have to notify the employees of the eligibility criteria and then 75 days out, we have to notify of the final eligibility criteria based on the 2005 Civil Service Board recommendations.

**Virginia Robinson** – And as I recall, that was set because if a candidate needing to start working on a career or something of that nature that was giving him time to actually to do that if I recall.

**Wade Wood** – Correct, at least for the Police Department side.

**Virginia Robinson** – For this LT. eligibility and for the Sgt's that would not, with 8 years experience, would not be an issue because they're educational level would not be considered.

**Wade Wood** – There's 3 standards, so that one standard would be, but I think I can speak for the Chief here. The 90 day period, we're going directly off what it says because it doesn't have a qualifier for education.

**Virginia Robinson** – That was the reason behind the 90 days I think at the time we discussed it.

**Marv Rosen** – I'm also looking at the 2010 memo regarding Sgt's promotions and there is that 90 notification period. There was a period when the department allowed eligible employees who hadn't met the educational requirements to sign a contract that I will enroll and complete certain number of credit hours within a period of time. Do you know how many people may have taken a contract like that and actually fulfilled it? And a bigger question, were there people who signed that contract and did not fulfill their educational agreement.



**Brandon Moore** – For reasons I can think of there were 3 that did not have their associates degree and did sign an educational contract. 2 of those have since completed and 1 is still working towards that.

**Marv Rosen** – So they're making progress. Excellent. Any comments or questions?

**Carolyn Worthington** – It would help me if I could have a better understanding of what we're being to consider, what is being changed?

**Chief Anderson** – In the staff report we provided you, the recommendation is to adopt the promotional requirements for Sgt. and LT. It should be dated March 6<sup>th</sup>.

**Alan Coxie** – Can I make a quick question? Is the changes being made basically to add that 3<sup>rd</sup> line in so people who don't have a degree but have time and service can essentially sit for the test? That's the only difference?

**Chief Anderson** – Yes.

**Alan Coxie** – That's what I thought.

**Chief Anderson** – Well, for LT. not only having 8 years but you're also changing where now it's required to be 1 year as a Sgt. with 3 years time and grade.

**Allan Coxie** – The second question I have is, I was looking on your hand out here and number 4 says 6 years sworn law enforcement officer service with a minimum 4 years with the Asheville Police Department and a total of score of 120 points. My question is if you do not have any kind of degree, associates or masters, can you achieve 120 points?

**Brandon Moore** – Looking at one of the worksheets is the easiest way to do it. It is achievable but it is very difficult and I think the committee wanted that because it still pushes the idea that the education is a key component and we want you to go after it. But if you don't have it, we have several that don't have a bachelor's yet but they have the equivalent of an associates, this way even they're short by just a couple of hours on either one of those steps but they've been here for a certain amount of years, so if I have just shy of the 60 semester hours, that's going to give me, say I have 59 points...

**Alan Coxie** – No, my hypothetical was no education whatsoever. None. Can you achieve 120 points with zero education.

**Brandon Moore** – You have to have some.

**Chief Anderson** – let's say you might be a 20 year veteran but don't have any educational requirements but you have been through all kinds of law enforcement training, you might be able to, it would be a lot.

**Brandon Moore** – According to what we have now, you would not. You have to have some level of education because we max out. There is a maximum on each of the other components.

**Wade Wood** – the last time we looked at it, I think you could have 40 hours of college credit, keep in mind your BLET can be converted to education hours for a degree. It does not count toward your training points but it can be converted toward that.

**Alan Coxie** – How many hours would a typical law enforcement officer have in pursuit of BLET?

**Brandon Moore** – 15, and if I'm right we sat down and talked about it and take those hours and then equate them to AB-Tech would give them toward a degree pursuit. Basic Law Enforcement gives them x amount but over the course of years of mandatory in service, certain of those can qualify as well. With that in mind taking those hours not just as we give you credit for hours but taking them over to the accredited agency and saying what can I get for these amount of points. I think at that point it would be doable.

**Alan Coxie** – That does a good job answering my question because just a basic review of the math looks like you can max out at 50 points training, you max out at 20 points on service and leads me to my final comment, not a question so much, I like what you're doing with this, I'm very comfortable with it, I can see where you're going with it and the process is well thought out. I also like the fact that you're mending this process to allow longer term officers who maybe have been in the department for 20, 25 years but came in at a time when where education wasn't required to now use their time and grade that we've used a lot here today, to sit for this test and to me I see that as very valuable thing. I, my experience with Police and Fire has been that at that 10 year point you personally may not feel comfortable but at the 15 and 20 year point, you may finally have enough response time and time within the department where now you feel comfortable taking it. But you may not have degree and I like the fact that under option #4 especially if what's you're talking about is your in service time training converts to quarter hours at a community college system you can get those points. As long as it's technically possible for them to achieve that 120 with no degree, I'm very, very comfortable with that. I have one comment, why did you all choose to cap at 2000 hours, why didn't they just keep going?

**Brandon Moore** – We looked at 16 different agencies across the state with great assistance from HR, we got feedback from 16 out of twice as many. They returned us all their eligibility requirements. The one that fit what we were looking for, we used more of a model of Buncombe County's. They came in and described their processes. 2000 hours not to include BLET is a lot of hours. We thought that number was pretty sufficient to come out at if your get your 2000 hours, you're up into the realm of 8 years as a supervisor. That's a lot of hours.

**Alan Coxie** – I have 2 quick comments, I'm comfortable with what I see. The 2 things that I might make a suggestion to you as you go forward down the road, I'm really getting a lot of training in process management, I think that when we incorporate a lot of process management, you improve things. The one thing I would like to see changed is the less than 100 hours, 0 points. 99 hours is a lot of training and to get zero points for it is a little bit insulting and so I think the starting point should be 5 not and zero because if you're saying anything less than 100 hours of training is worth nothing, it speaks volumes to 1 to your officer who maybe is just getting started and you're saying my time here is worth nothing. Also didn't understand why you capped it out but I also am experienced enough to know 2000 hours is a lot of training hours. I'll give you that. And the last thing I wanted to comment on is back on the previous page where you're doing these experience calculations, you stopped at 15 hours of full time service, I'd liked to have seen that go in 20, 25 and 30. Primarily because I could see if possible for a 25 year department employee to finally say I came before and would like to go for Sgt. and he doesn't have a degree, he or she, but 25 years of service would theatrically put him at 25 points for 20, 30 points for 25 that improves his odds. I mean, there's some validity to saying before I retire I would like to achieve a rank and so that stopping at 15 points makes it look like we devalue here as a person in and

around experience range of 15 years and it just seems to me like state retirement is 30, it should go on up in 5 year blocks. Your thoughts?

**Brandon Moore** - The committee discussed that with the Chief and ways that we saw other agencies do it was it was a point per year all the way up until you were out of years you got that maximum amount of points. The committee likes this system better. The difference is you get points quicker in this system than you do in the other system. There is a 5 point bonus for longevity with the agency. 5 years with APD gets you 5 extra points. When you hit that 5 year point you have 15 off the bat and so technically that 15 year veteran is going to have 25 but the difference in the break down is when you sit them down year for year is that a individual with 9 years here on this one will end up with 15 points and only probably 14 on the other one. It changes slightly as you go up. The committee thought this seemed more equitable and gets more people in the door base on points alone.

**Alan Coxie** – That makes sense.

**Marv Rosen** – Do you have a response to Mr. Coxie's suggestion that less than 100 hours of training receive some form of recognition?

**Alan Coxie** – I want to tag onto that. Less than 3 years of full time experience is zero points. I just don't like zeros. 3 years of being a frontline police officer of the Asheville Police Department, that should be worth something. You guys work hard. I've ridden trucks and watched what you all do and so having as zero seems to devalue the 3 years of experience that a new rookie officer does.

**Brandon Moore** – I can attempt to answer why it was designed that way. It's to ensure that we're still equating where we require certain years of service here. We wanted to be very careful that when we start computing points that someone doesn't find a way around what could be certain areas to get away from what we show is very explicit direction that we want to see your education present and if in the system there's a way built in with just so many years and so many hours of training you can get away from not having as much education. I think and won't speak for the Chief on that, but when he came forward with this committee and what we would like look for, education was very important and did not want us to move away from that too far.

**Alan Coxie** – I saw that in there and I was able to see that was one of your objectives. I'm comfortable with the this system the way it is because I see the intent of what you are doing and I think it is well thought out. I'm very comfortable with it. Just going forward and you come back a year from now that's the only thing that I would say to work 3 years as a front line patrol officer patrolling the City of Asheville and your value be zero, I can see where some officers might take that personal.

**Chief Anderson** – But that might be made up on the educational side that you have a minimum of a 2 year degree at this point even to work in Asheville, so that kind of off sets that.

**Alan Coxie** – True. Thank you sir, thanks for answering that.

**Marv Rosen** – How many hours of in service training do you provide or does the average officer receive every year?

**Brandon Moore** – State mandatory is 24, we usually do 32 to 40 per year in service training. That's the minimum.

**Chief Anderson** – There are other law enforcement training that would count toward this as well.

**Marv Rosen** – Other comments, questions? (None) Do you anticipate any changes regarding eligibility now, I don't want to go into depth with this question, but basically your testing process is going to remain the same?

**Chief Anderson** – Yes.

**Marv Rosen** – I think there was a reference to 2012 in regard to developmental associates. Has there been any other work with them in the department?

**Chief Anderson** – The City has used Developmental Associates extensively. I believe they're using them now for the Assistant City Manager's process, they used it for the Police Chief's process and I think Finance Director. Derrick you can answer that better than I can.

**Derrick Swing** – Dr. Strauss came and presented to the Board a couple of years ago when the Chief had first started and when we switched from IPMA to Developmental Associates.

**Marv Rosen** – Developmental Associates is not the group you brought in to do the employee opinion survey.

**Chief Anderson** – Strategic Plan.

**Marv Rosen** – That's a different group.

**Chief Anderson** – Yes.

**Marv Rosen** – Any other comments or questions? Would you like to make a motion?

**Alan Coxie** – Yes, I'd like to make a motion that we approve the Chief of the Police Department's recommendation for amended changes to the promotional processes for Police Sgt. and Police LT., the ones presented to the Board December 12, 2012.

**Wade Wood** – That's the previous example.

**Alan Coxie** – That's the previous example? Amend that to date of March 4<sup>th</sup>. (short discussion) So the recommended changes as of the March 6<sup>th</sup> memo, City Staff. That would be my motion.

**Carolyn Worthington** – Second.

**Marv Rosen** – Motion offered and seconded. Any further discussion? All those in favor of the motion as stated, say Aye? Opposed? No Nays. The motion is passed. Chief, I appreciate your time, I'd just like to ask you just one other question. In terms of this survey that was done sometime in November and December, what kind of feedback has the general officer population received? Have there been individual discussions or district discussions?

**Chief Anderson** – Are you talking about the Strategic Planning process? As part of that strategic planning process there were individual meetings held with all employees, community, law enforcement officials and department staff. From that there were 6 planning areas that were determined and then employees could volunteer to participate on those 6 planning areas. We've taken all that information that has been gathered in those planning areas and submitted it to the consultants who are putting together the draft plan. We hope to have that in the next couple of weeks. All the information that has been gathered has been made available to the employees. Now we are in the process of finalizing the plan and at some point it will be presented to the Public Safety Committee and then to the full City Council.

**Marv Rosen** – Every officer in the department has had an opportunity to get a general sense of what the issues were and now that they're being approached by these 6 committees that you're talking about.

**Chief Anderson** – Yes, because they participated as part of the planning process. They know what was identified as issues or concerns.

**Marv Rosen** – I've had some officers say that they have not received any feedback. I'm just bringing that to your attention.

**Chief Anderson** – Everybody had an opportunity to provide their input. That information was collected and everyone will have an opportunity to review the plan. The issues identified. It's a 3 year plan, the strategies that will be implemented to address whatever those issues are.

**Marv Rosen** – You've set a time line for feedback?

**Wade Wood** – To clarify a little further. We had 6 planning areas identified by the various groups. Those were sent out to every employee to solicit their interest in volunteering to serve on a committee to address that. Each has from 6 to 10 members serving on that Board. The group that I'm over, I gave them a list of everyone that applied to reach out to those folks in particular to solicit input as we put this plan together.

**Chief Anderson** – and also our mandatory roll call. We talked about the process to all employees. What phase we were in the process.

**Marv Rosen** – Excellent, Any other comments or questions? Any new business?

**Derrick Swing** – I would like to thank the Chair for sitting in our Asheville Way Awards nomination process this year and offer an opportunity for you to attend the ceremony next Wednesday at 1:30 at the Grant Center.

**Marv Rosen** – If there is nothing further, I'd like to thank you for your patience this afternoon. Thank you councilwoman Whisler for attending. We are adjourned.